

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:4049 OF 2006

Dated: 08.06.2007

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Between:

1. The Secretary, Department of Education,
Government of Andhra Pradesh, Secretariat,
Hyderabad and another.

..Petitioners

And

V. Lingam.

..Respondent.

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:4049 OF 2006

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition has been filed by the petitioners aggrieved by the order, dated 17.10.2005 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.4022 of 2004.

Originally, the respondent herein who is the applicant, filed O.A.No.4022 of 2004 seeking to quash the charge Memo in Rc.No.7099/99/E1, dated 2.7.2004.

It is the case of the respondent-applicant that at the time of attaining the age of superannuation on 30.6.2005, he was working as Manager of A.P., Government Text Books Press. While he was working as a Cashier, the applicant was issued a memo dated 23.11.1992 calling upon him to explain as to why he did not complete the Cash Book and U.D.P. Registers from 1.4.1991 to 31.10.1991. Though he submitted his explanation seeking time to complete the Cash Book, the petitioner-Department did not take any action. Subsequently, he was placed under suspension on the ground that there was a shortfall of cash during his tenure and he did not maintain the cashbook from 1.4.1991 to 31.10.1991. Aggrieved by the same, the respondent-applicant filed O.A.No.4118 of 1999, which was disposed of directing the Department to examine the representation and pass orders. Subsequently, the applicant filed O.A. challenging the extension of suspension orders and the said O.A. was dismissed on the ground that the matter was entrusted to ACB. However, on a representation, he was reinstated into service. But, on the ground of pendency of disciplinary proceedings, he was not being promoted. Hence, he filed another O.A.No.2039/2002, which was disposed of directing the Department to provide what all books and records that are handed over by the applicant at the time of handing over the charge to one P.M. Das as per the acknowledgement given by him on 31.10.1991. It was further directed that after completion of the said

entries, if the applicant is found fit for promotion after examining his case, necessary orders be passed. As the said direction has not been complied with, C.A.No.904 of 2002 was filed, wherein interim orders were passed directing the Department to consider the case of the applicant for promotion. Ultimately, he was promoted subject to finalization of disciplinary proceedings. It is also the case of the application that there is delay of 13 years in concluding the enquiry.

The respondent-Department filed counter-affidavit contending that the departmental enquiry is delayed mainly due to non-availability of two UDP registers, but not for any other reason.

The tribunal having observed that the applicant cannot be made to languish without pension on account of pendency of disciplinary proceedings and the department is not serious in pursuing the charges levelled against the applicant, set aside the charge memo and allowed the O.A. Having aggrieved by the same, the present writ petition is filed.

A perusal of the record goes to show that the charge memo in question was issued to the respondent-applicant on the ground of alleged misappropriation of Rs.17,41,685-80 ps and on the earlier occasion, in different O.As., the tribunal directed the department to complete the enquiry. There is no material on record that any attempt has been made to complete the enquiry. It is not disputed that the enquiry proceedings are still pending.

In view of the nature of the charges levelled against the respondent-applicant and in view of the pendency of the disciplinary proceedings and in view of the superannuation of the applicant, without expressing any opinion on the merits of the case, We feel it appropriate to modify the order of the tribunal to the effect that the petitioners-department shall complete the enquiry within a period of three months from today basing on the records available with them. However, it is made clear that in case the enquiry is not completed within the stipulated time, the order of the Tribunal would become

operative.

Subject to the above modification, the writ petition is disposed of. No order as to costs.

Justice T. Meena Kumari

Justice G. Chandraiah

Date: 8th June, 2007
Nn/Gurc.

**HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH**

WRIT PETITION No:4049 OF 2006

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

08/06/2007

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